IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 762 OF 2007

Shri Pandurang Dhondiba Pawar ..Applicant

Vs.

Shri Sadanand Baburao Pachhapure
and anr. ..Respondents

Mr. Manoj Chatage for applicant.
Mr. D.P. Adsule, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : September 28, 2007.

P.C.:

1. Heard Mr. Chatage the learned counsel for the applicant who had filed Summary Criminal Case No.1022 of 2003 under Section 138 of the Negotiable Instruments Act, 1881 and it resulted into an acquittal as per the order passed by the learned Chief Judicial Magistrate, Sangli on 20/10/2006. It was the claim of the complainant that Plot No.63 admeasuring 236 sq.mtrs. was belonging to the accused and the complainant had purchased the same for price of Rs.2,00,000/-. The amount was paid to the accused but the complainant was not put in possession of the plot

and no conveyance was signed. Therefore, the accused issued the cheque of Rs.2,00,000/- on 6/6/2003 to return the consideration of Rs.2,00,000/-.

2. On assessment of the evidence, the trial court held that the complainant had suppressed the material facts, i.e., the subject plot bearing No.63 was sold by him to one Mr.Chandrakant Mekalke and he had collected a much more amount than Rs.2,00,000/-. In addition, it was noticed that through the irrevocable power of attorney signed in favour of the complainant plot No.63 was put in his possession by the accused. Under these circumstances, the cheque dishonoured could not be held to have been issued in discharge of debt or any other legal liability by the accused and in favour of the complainant. This reasoning set out by the trial court does not warrant reconsideration at the hands of this court.

3. Hence, leave to appeal is refused and the application is rejected.

(B.H. Marlapalle,J.)